

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CR. NO. 22-20504

v.

Hon. Jonathan C. Grey

AWS NASER,

Defendant.

**NOTICE ASSERTING SPEEDY TRIAL RIGHTS UNDER
THE SIXTH AMENDMENT, THE SPEEDY TRIAL ACT, AND THE
INTERSTATE AGREEMENT ON DETAINERS ACT**

Aws Naser, through counsel, provides written notice that he continues to assert his rights to a speedy trial under the Sixth Amendment, the Speedy Trial Act, and the Interstate Agreement on Detainers Act (IADA).

One year has passed since the government indicted Aws Naser in October 2022. (R. 1, Indictment.) The alleged crime ended in October 2017, five years ago. (Id.) Mr. Naser was arraigned on November 15, 2022.

On December 21, 2022, the government filed a motion requesting the Court designate this case as a “complex case” and to exclude the anticipated delay in producing discovery and bringing Mr. Naser to trial. The defense has opposed that motion. Both parties have briefed the issue, and it has been raised at multiple status hearings. That motion has remained unresolved for 288 days. Naser continues to oppose the

designation of this case as uniquely complex. (*See* ECF No. 46, Def. Supp. Reply Opposing Complex Case Designation.)

The Speedy Trial Act sets a deadline of 70 days for bringing a defendant to trial. While the Act excludes “delay resulting from any pretrial motion, from the filing of the motion through the conclusion of the hearing on, or other prompt disposition of, such motion” 18 U.S.C. § 3161(h)(1)(D), that exclusion is not indefinite. The statute prevents exclusion of time based on pretrial motions beyond “30 days from the time the court receives all the papers it reasonably expects” in regard to pretrial motions. *Henderson v. United States*, 476 U.S. 321, 329 (1986). Congress “plainly wanted” even “complicated motions” decided “within 30 days of a hearing, and less complicated motions, decided without a hearing, to be decided ‘promptly,’ within that 30-day period.” *United States v. Scott*, 270 F.3d 30, 57 (1st Cir. 2001). “After that thirty-day period expires, the Speedy Trial clock begins to tick, regardless of when the trial court ultimately rules on the motion.” *United States v. Johnson*, 29 F.3d 940, 942 (5th Cir. 1994).

The Interstate Agreement on Detainers Act (IADA) sets a 120-day deadline for bringing a defendant to trial on the detainer-related charges. Article IV(c) of the IADA provides that “trial ***shall*** be commenced within one hundred and twenty days of the arrival of the prisoner” in the receiving jurisdiction, otherwise the indictment shall be dismissed with prejudice. 18 U.S.C. App. III, Art. IV(c), (e) (emphasis added). The Sixth Circuit has noted that “Article IV and the sanctions contained therein are presented in

mandatory terms.” 595 F.2d at 344. *United States v. Eaddy*, 595 F.2d 341, 343-44 (6th Cir. 1979).

Mr. Naser’s counsel has raised concerns about the unjustified delays in this case both in writing and orally at court appearances. Mr. Naser himself filed a pro se motion for a speedy trial on December 16, 2022. (ECF No. 20¹, Pro Se Motion.) Mr. Naser’s counsel filed a memorandum regarding the unjustified delays in this case on August 8, 2023. (ECF No. 69.) And defense counsel raised the issue of Mr. Naser’s speedy trial rights at status conferences on December 21, 2022,² April 5, 2023,³ May 16, 2023,⁴ and August 9, 2023.⁵

On April 5, 2023, the government represented it could produce the remaining Rule 16 discovery in “six weeks, at the outer edge; probably sooner than that.”⁶ That time period expired May 17, 2023. Four months after that time frame, on October 4, 2023, the government notified defense counsel it has another discovery production ready for review. It is unclear whether this is the final Rule 16 production, or whether Rule 16 discovery continues.

¹ On December 23, 2022, the government moved to strike Naser’s pro se motions, including his request for a speedy trial. (ECF No. 26.) On January 10, 2023, the district court granted that motion. (ECF No. 30.) Therefore, docket entries 20 and 21 – Naser’s pro se motions – do not appear on the public PACER docket.

² Dec. Hr’g Transcript, ECF No. 54, PageID.242-43.

³ April Hr’g Transcript, ECF No. 53, PageID.219.

⁴ May Hr’g Transcript, ECF No. 58, PageID.282-83.

⁵ August Hr’g Transcript, ECF No. 75, PageID.394-96.

⁶ April Hr’g Transcript, ECF No. 53, PageID.221-22.

This case currently has no discovery deadline, no motion cut-off, and no trial date. Through this notice, Mr. Naser again asserts his rights to a speedy trial under the applicable constitutional and statutory provisions that protect individuals from nebulous and ongoing criminal prosecution. Mr. Naser wishes to preserve available remedies for any speedy trial violation, including dismissal,⁷ and will seek those remedies at the appropriate time.

Respectfully submitted,

FEDERAL COMMUNITY DEFENDER

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⁷ When a meritorious and timely motion to dismiss is filed based on a violation of the Speedy Trial Act, the remedy is dismissal. *Zedner v. United States*, 547 U.S. 489, 499 (2006).

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2023, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the parties of record.

Signed,

s/Amanda N. Bashi

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Dated: October 5, 2023